REMARKS

Claims 1-24 are pending in this Application. In the Office Action mailed May 2, 2006, the Examiner:

1. Rejected Claim 16 under 35 U.S.C. § 112, second paragraph for being indefinite;
2. Rejected Claims 1, 2, 8-9, 11-15, 17-20 and 23 under 35 U.S.C. § 102(b) as being anticipated by Matthews et al. (U.S. Patent No. 3,838,998; herein "Matthews");
3. Rejected Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Matthews in view of Seki et al. (Japan Abstract JP 07024299, herein "Seki");
4. Rejected Claims 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Matthews in view of Aston et al. (U.S. Patent No. 4,475,936; herein "Aston");
5. Rejected Claims 7 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Matthews in view of Veatech et al. (U.S. Patent No. 2,978,340; herein "Veatech");
6. Rejected Claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Matthews in view of Kizilshtei et al. (English translation of Abstract, SU 1650196; herein "Kizilshtei") and Yamada et al. (US Publication No. 2001/0043996; herein "Yamada") and Brown et al. (US. Patent No. 4,235,753; herein "Brown"); and
7. Rejected Claims 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Matthews in view of Netting (US. Patent No. 3,888,957; herein "Netting").

Applicants respectfully address the Examiner's rejections below.

Claims Rejection - 35 U.S.C. § 112, second paragraph

In numbered paragraph 3 of the Office Action, the Examiner rejected Claim 16 for being indefinite and having insufficient antecedent basis for the phrase "the blowing agent." Applicants respectfully submit amended Claim 16, amended to correct a typographical error and provide proper antecedent basis to the phrase. No new matter has been introduced with the amendment to Claim 16. Applicants respectfully request entry and allowance of amended Claim 16, believed to overcome the Examiner's rejections and to particularly point out and distinctly claim the subject matter that Applicants regard as their invention.

Claim Rejection - 35 U.S.C. § 102(b)

In numbered paragraph 5 of the Office Action, the Examiner rejected Claims 1, 2, 8-9, 11-15, 17-20 and 23 under 35 U.S.C. § 102(b) as being anticipated by Matthews. The Examiner states:

> "Matthews et al. discloses an agglomerate precursor comprising of aluminosilicate glasses (col. 4 line 37) from feldspar and the binding agent sodium silicate (col. 5 lines 60-63), wherein the agglomerate precursor has an alkali metal oxide content of less than about 10% (note alkali metal oxides Na_2O and K_2O total is 8% in col. 6 lines 25-34). Furthermore, Matthews et al. disclose the firing of the precursor to a temperature (col. 10 lines 23-24) sufficient to form a microsphere having a spherical wall (col. 10 lines 3-6, 44-46) and an average particle diameter greater than 30 microns (in col. 15 lines 14-16). Furthermore, Matthews et al. disclose drying the precursor mixture (col. 7 lines 49-53) to a first

moisture level (col. 8 lines 26-28). See also col. 2 lines 22-33."

Applicants respectfully disagree with the Examiner's statement and specifically point out that Matthews does not teach expressly or inherently each and every element of Applicants' claimed invention. For example, contrary to the Examiner's statement that "the agglomerate precursor has an alkali metal oxide content of less than about 10%," Applicants point out that the teaching described by the Examiner at col. 6 lines 25-34 of Matthews is merely the chemical composition of soda feldspar and not of the precursor composition of Matthews. Instead, Matthews explicitly requires that the "original laboratory composition from which micro-spheres were initially formed" have "the approximate proportion by weight of 60-20-20, the numbers representing the silica, alumina and soda oxides" (Col. 6, ll. 40-41 and 53-56), which means that Matthews requires the precursor to have an alkali content of 20%--a value significantly different and not equivalent to less than about 10% as claimed in Applicant's Claim 1. Applicants also point out that contrary to the Examiner's statement that Matthews "discloses an agglomerate precursor," Matthews does not provide an agglomerate as the term is known to one of ordinary skill in the art. Rather, Matthews specifically teaches "admixing at least one finely particulated, high temperature soda feldspar glass former and at least one low temperature sodium silicate glass former in a liquid to form a liquid-based slurry" (Claim 1; col. 5, ll. 60-64 and Col. 7, ll. 40-44). Applicants reiterate that one of ordinary skill in the art would not presume that finely particulated materials formed in a liquid-based slurry are an agglomerate. Furthermore, Matthews

specifically teaches against agglomeration by requiring that such a particulate slurry be prilled (Col. 7, ll. 45-48) and that prilled particles are isolated from other particles "to avoid cannibalism or agglomeration" (Col. 8, ll. 65). As such, Matthews does not provide an agglomerate precursor as claimed in Applicants' Claims 1 and 13. In addition, Applicants point out that contrary to the Examiner's statement that Matthews teaches "drying the precursor mixture. . .," Matthews does not dry the mixture to form the agglomerate precursor as claimed in Applicants' Claim 13. Instead, Matthews dries prilled spherical particles of "finely divided powder" (Col. 8, ll. 10-14) and, as discussed above, specifically teaches that such particles do not form an agglomerate, because the reference explicitly teaches isolating the particles "to avoid cannibalism or agglomeration" (Col. 8, ll. 65). Accordingly the above teachings show that Matthews does not teach or suggest the claimed methods of independent Claims 1 and 13. As such, Applicants submit that Matthews does not anticipate independent Claims 1 and 13 because, for the reasons set forth above, each and every element of such claim are not found, either expressly or inherently, in Matthews. Applicants respectfully request removal of the rejection under U.S.C. § 102(b) and entry and allowance of independent Claims 1 and 13 and all claims depending therefrom, as provided in the Amendments to the Claims beginning on page 3 of this paper.

Claims Rejection - 35 U.S.C. § 103(a)

In numbered paragraph 3 of the Office Action, the Examiner rejected Claims 3, 4, 7, 10, 16, 21 and 22 as being unpatentable over Matthews in view of various other references. For the

reasons set forth above, Applicants submit that Matthews does not teach or suggest Applicants' claimed invention as a whole and teaches away from various aspects of Applicants' claimed invention, such as providing an agglomerate precursor, providing an agglomerate with an alkali metal oxide content of less than about 10 wt. % based on the weight of the precursor, and drying to form the agglomerate precursor. In addition, the deficiencies in Matthews cannot be overcome by the teachings of the cited references, Seki, Aston, Veatech, Kizilshtei, Yamada, and/or Brown. Moreover, there is no motivation in the reference itself nor to one of ordinary skill to combine such references with Matthews, and as such, no reasonable expectation of success. Accordingly, Applicants respectfully submit that the claims are not obvious over Matthews alone or in view of any cited references. Applicants request entry and allowance of Claims 3, 4, 7, 10, 16, 21 and 22 as provided in the Amendments to the Claims beginning on page 3 of this paper.

Applicants respectfully submit that new Claims 24 is patentably distinct from the cited references and respectfully request allowance of new Claim 24. No new matter has been introduced with new Claim 24. Support for this new claim may be found throughout the Specification, see e.g., para. [0104]-[0115].

Statement of Commonly Owned Invention

In numbered paragraph 25, the Examiner advised Applicants of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time of invention in order to consider the

applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f), or (g) prior art under 35 U.S.C. 103(a). Applicants hereby state that the rights to each invention of the claimed subject matter in the instant Application were, at the time of such invention, commonly owned by the Assignee as a consequence of invention assignments from the named inventors.

CONCLUSION

Applicants respectfully submit that the Application is in condition for allowance, and pursuant to the filing of this Amendment, Applicants earnestly seek such allowance of Claims 1-23 as well as new Claim 24. Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214.999.4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1102. In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

This is intended to be a complete response to the Office Action mailed May 2, 2006.

Please direct all correspondence to the practitioner listed below at Customer No. 60148.

Respectfully submitted,

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